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22 NATIVE VILLAGE OF KIVALINA and CITY
23 OF KIVALINA,
24 Plaintiffs,
25 vs.
EXXON MOBIL CORPORATION, *et al.*,
Defendants.

CASE NO. C 08-01138 SBA

**STIPULATION RE: CASE
MANAGEMENT CONFERENCE**

[Proposed Order Lodged Separately]

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1 WHEREAS, on February 26, 2008, Plaintiffs Native Village of Kivalina and City of
2 Kivalina (“Plaintiffs”) filed the Complaint in this action;

3 WHEREAS, on February 26, 2008, pursuant to Fed. R. Civ. P. 26 and Local R. 16-2, the
4 Court issued an Order Setting Initial Case Management Conference and ADR Deadlines
5 (“February 26, 2008 Order”);

6 WHEREAS, on March 19, 2008, Defendants ExxonMobil Corporation; BP America, Inc.;
7 BP Products North America, Inc.; Chevron Corporation; Chevron U.S.A., Inc.; ConocoPhillips
8 Company; Shell Oil Company; AES Corporation; American Electric Power Company, Inc.;
9 American Electric Power Service Corporation; Duke Energy Corporation; DTE Energy
10 Company; Edison International; MidAmerican Energy Holdings Company; Pinnacle West Capital
11 Corporation; The Southern Company; Dynegy Holdings, Inc.; NRG Energy; Reliant Energy, Inc.;
12 Mirant Corporation; Peabody Energy Corporation; and Xcel Energy Inc. (“Defendants”) and
13 Plaintiffs filed a stipulation pursuant to Local R. 6-1(a) extending the Defendants’ time to respond
14 to the Complaint until June 30, 2008;

15 WHEREAS, Defendants intend to file one or more motions to dismiss the Complaint
16 pursuant to Fed. R. Civ. P. 12(b);

17 WHEREAS, Defendants and Plaintiffs will attempt to agree on a briefing schedule and
18 format for such motions, and will submit their agreements or proposals to the Court for approval;

19 WHEREAS, in light of the legal issues that will be raised by such motions, the parties
20 agree that, with respect to each of the Defendants, the Rule 26(f) conference and Case
21 Management Conference in this matter should be deferred until after the Court has issued a ruling
22 on all motions under Fed. R. Civ. P. 12 with respect to such Defendant; and

23 WHEREAS, Plaintiffs and Defendants have discussed the options for Alternative Dispute
24 Resolution (“ADR”) set forth in this Court’s ADR Local Rules, and Plaintiffs and Defendants
25 agree that this case is not suited for court-sponsored Alternative Dispute Resolution process at
26 this time;

27 NOW THEREFORE, Plaintiffs and Defendants, through their undersigned counsel,
28 hereby stipulate as follows:

1 1. All dates established in the February 26, 2008 Order should be vacated.
2 2. The Initial Case Management Conference provided for by Local R. 16-2, all
3 disclosures by both sides pursuant to Fed. R. Civ. P. 26(a), and the ADR Certifications provided
4 for by Local R. 16-8 should be deferred, insofar as they involve any given Defendant, until the
5 Court has issued a ruling upon all motions under Fed. R. Civ. P. 12(b) with respect to such
6 Defendant.

7 3. On or before May 28, 2008, Plaintiffs and Defendants will submit to the Court
8 their proposals for the schedule and format of any motions under Fed. R. Civ. P. 12(b), either in
9 the form of a stipulation under Local R. 7-12 or administrative motions under Local R. 7-11. In
10 contemplation of this submission, and in accordance with this Court's Standing Order,
11 Defendants and Plaintiffs shall meet and confer telephonically, on or before May 16, 2008, to
12 discuss the number, bases, and format of any anticipated motions by any Defendant or
13 Defendants under Fed. R. Civ. P. 12(b).

14 4. Plaintiffs reserve any and all rights they may have to seek leave to conduct
15 discovery in connection with such motions, and Defendants reserve any and all rights they may
16 have to object thereto.

17 5. In the event that a party concludes that the deferral in paragraph 2 should be
18 terminated, and a new schedule set for the matters addressed therein, such party shall so notify in
19 writing all other parties who have appeared in the action. Any party that opposes termination of
20 the deferral in paragraph 2 above must file an appropriate motion under Local R. 7-1 within 35
21 days of receiving such written notice. Pending the Court's resolution of any such motion, the
22 matters described in paragraph 2 above shall continue to be deferred.

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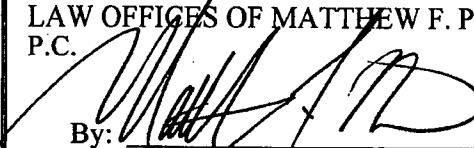
1 6. This stipulation solely addresses scheduling and is not intended to operate as an
2 admission of any factual allegation or legal conclusion, or as a waiver of any objection, including
3 subject matter jurisdiction, personal jurisdiction, and/or venue.

4 Dated: May 7, 2008

Respectfully Submitted,

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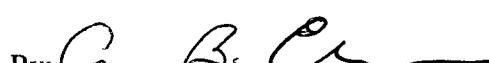
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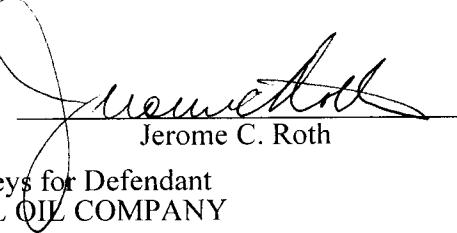
4 Dated: May ___, 2008

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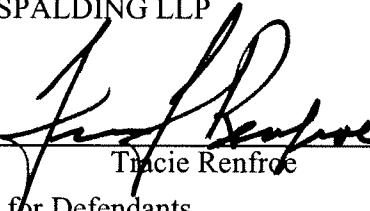
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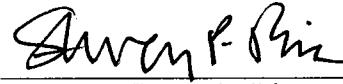
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19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 OAKLAND DIVISION

22 NATIVE VILLAGE OF KIVALINA and CITY
OF KIVALINA,
23 Plaintiffs,
24 vs.
25 EXXON MOBIL CORPORATION, *et al.*,
Defendants.

26 CASE NO. C 08-01138 SBA

27 [PROPOSED] ORDER RE: CASE
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1 Pursuant to the Stipulation of the Plaintiffs and of Defendants ExxonMobil Corporation;
2 BP America, Inc.; BP Products North America, Inc.; Chevron Corporation; Chevron U.S.A., Inc.;
3 ConocoPhillips Company; Shell Oil Company; The AES Corporation; American Electric Power
4 Company, Inc.; American Electric Power Service Corporation; Duke Energy Corporation; DTE
5 Energy Company; Edison International; MidAmerican Energy Holdings Company; Pinnacle West
6 Capital Corporation; The Southern Company; Dynegy Holdings, Inc.; NRG Energy; Reliant
7 Energy, Inc.; Mirant Corporation; Peabody Energy Corporation; and Xcel Energy Inc.
8 (“Defendants”), and FOR GOOD CAUSE SHOWN, IT IS HEREBY ORDERED:

9 1. All dates established in the “Order Setting Initial Case Management Conference
10 and ADR Deadlines,” filed in this case on February 26, 2008, are vacated.

11 2. The Initial Case Management Conference provided for by Local R. 16-2, all
12 disclosures by both sides pursuant to Fed. R. Civ. P. 26(a), and the ADR Certifications provided
13 for by Local R. 16-8 should be deferred, insofar as they involve any given Defendant, until the
14 Court has issued a ruling upon all motions under Fed. R. Civ. P. 12(b) with respect to such
15 Defendant.

16 3. On or before May 28, 2008, Plaintiffs and Defendants will submit to the Court
17 their proposals for the schedule and format of any motions under Fed. R. Civ. P. 12(b), either in
18 the form of a stipulation under Local R. 7-12 or administrative motions under Local R. 7-11. In
19 contemplation of this submission, and in accordance with this Court’s Standing Order,
20 Defendants and Plaintiffs shall meet and confer telephonically, on or before May 16, 2008, to
21 discuss the number, bases, and format of any anticipated motions by any Defendant or
22 Defendants under Fed. R. Civ. P. 12(b).

23 4. In the event that a party concludes that the deferral in paragraph 2 should be
24 terminated, and a new schedule set for the matters addressed therein, such party shall so notify in
25 writing all other parties who have appeared in the action. Any party that opposes termination of
26 the deferral in paragraph 2 above must file an appropriate motion under Local R. 7-1 within 35

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1 days of receiving such written notice. Pending the Court's resolution of any such motion, the
2 matters described in paragraph 2 above shall continue to be deferred.

3 DATED: May ____, 2008

4 By: _____
5 The Hon. Saundra B. Armstrong
6 United States District Judge

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